



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 20, 1998

Mr. John M. Knight
Assistant Police Legal Advisor
City of Arlington
620 W. Division Street
P.O. Box 1065
Arlington, Texas 76004-1065

OR98-0185

Dear Mr. Knight:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111703.

The Arlington Police Department (the "department") received a request for a copy of the complete file in case number 971740383. You assert that the requested information is excepted from disclosure pursuant to section 261.201 of the Family Code in conjunction with section 552.101 of the Government Code. You also assert that the information at issue is excepted from disclosure pursuant to section 552.108 of the Government Code and under common-law privacy.

Section 552.101 of the Government Code excepts information from required public disclosure when the information is confidential by law. Subsection (a) of section 262.201 of the Family Code provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

You submitted to this office the requested information. We have reviewed this information, which consists of "reports, records, communications, audiotapes, videotapes, and working papers used or developed" in an investigation made under chapter 261 of the Family Code. Thus, the information in the requested file may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the department, which is the agency that investigated the allegation. Since you have not informed this office that the department has adopted any rules providing for release of this information, we conclude that the information at issue is confidential and may not be disclosed.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 111703

Enclosures: Submitted documents

cc: Mr. William Edmonds
Attorney at Law
Water Gardens Place
100 East 15th Street, Suite 510
Fort Worth, Texas 76102
(w/o enclosures)

¹Since section 261.201(a) makes the information at issue confidential, we need not address your other arguments against disclosure. However, as the requestor represents the accused, we note that section 261.201(c) of the Family Code provides that "... a court, on its own motion, may order disclosure of information that is confidential under this section if: (1) the order is rendered at a hearing for which all parties have been given notice; (2) the court finds that disclosure of the information is: (A) essential to the administration of justice; and (B) not likely to endanger the life or safety of: (i) a child who is the subject of the report of alleged or suspected abuse or neglect; (ii) a person who makes a report of alleged or suspected abuse or neglect; or (iii) any other person who participates in an investigation of reported abuse or neglect; and (3) the order is reduced to writing or made on the record in open court." Fam. Code § 261.201(c).